[Briefing]

SENATOR PANKONIN: The Committee on Nebraska Retirement Systems met at 11:00 a.m. on Friday, September 24, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a briefing for NPERS. Senators present: Dave Pankonin, Chairman; Russ Karpisek and Lavon Heidemann. Senators absent: Jeremy Nordquist, Vice Chairman; LeRoy Louden and Heath Mello. []

SENATOR PANKONIN: (Recorder Malfunction) ...briefing from the staff of NPERS to follow up on the earlier briefing that we had from the Legislative Fiscal Office and our committee counsel, Kate Allen. Want to welcome everyone and introduce Senator Karpisek. I'm Senator Pankonin, Senator Heidemann. So with that we'll have...both of you can come up, we've got two chairs or however you think it will work the best. As usual, we'll have you introduce yourselves, spell your name since we are recording for transcript. []

PHYLLIS CHAMBERS: This reminds me of the big chair at the Children's Zoo...the Lincoln Children's Museum, I guess. Okay. Senator Pankonin, my name is Phyllis Chambers, P-h-y-l-l-i-s C-h-a-m-b-e-r-s and I am the director of NPERS. []

RANDY GERKE: Good morning, Senators, my name is Randy Gerke, G-e-r-k-e and I'm the deputy director of NPERS. []

SENATOR PANKONIN: Thank you. We'll go ahead and let you start in the briefing book. There is under the white tabs is agency briefing. There is the letter that went out to the agency. And then a couple pages in is the response letter that was received this week that I'm sure you're going to refer to. Okay. And, Phyllis, you can move that microphone side to side a little bit, that will help you so you don't have to lean so much. []

PHYLLIS CHAMBERS: All right. Okay. []

SENATOR PANKONIN: That will work good. []

PHYLLIS CHAMBERS: And so would you like me to just proceed to answer the questions? []

SENATOR PANKONIN: Go ahead or...yes, if you'd like to summarize your letter then we can ask questions or however you'd like to proceed. []

PHYLLIS CHAMBERS: Okay. Senator Heidemann, Senator Karpisek and Chairman Pankonin, thank you for the opportunity to come here today for the briefing. I would like to address the questions that you have regarding the biennium budget and I realize that you do have an enormous challenge looking at you with the economic situation that we're facing and the budget that the state is dealing with. So in answer to the first question: What actions has NPERS and the PERB taken to reduce current expenditures? I would like to just comment that first there are three programs with NPERS, Program 41 is the agency; 42 is the board budget and then Program 515 which I'm sure you are aware of and that is the appropriations from the General Funds for the funding of the plans. We reduced Program 41, our operating budget by 2.5 percent in 2009-10 and 5 percent in 2010-11 as we were mandated. We have reduced our information technology. We've transitioned our support for our maintenance of the IT System with the OCIO. We've reduced our member education services, our food and our expenses associated with that. Also, we have reduced our postage and printing costs; travel and conference participation; and, in general, we've tried to keep all of our expenses at a minimum. We also renewed our lease, our current rent space at the current lease price without an increase. Then in Program 42, the board budget, we've reduced our conference and travel as well; and we've also reduced our monthly board expenses and we've reduced our retreat cost by going from a two-day retreat to a one-day retreat and the costs associated with that. So we are doing our part to try to control our expenses for those costs we can control. The results of the integrator awareness and efficiencies of our operations, however we are reaching our stress point where if we do reduce our expenses any further, I do have concerns that we'll risk maybe making errors or not providing our benefits under our time commitments and we would not have the resources that would allow us to fulfill our fiduciary duties to make sure that the benefits are paid on time. I would say also too, we have one position we have not filled and we have one...a person retiring at the end of the...in October and that person we are not planning to fill that position at this time. Both of those are positions that we would like to fill eventually, but at the current time with the budget we are not going to fill those two positions. We've had two other positions come open, but we felt that those were needed to be filled. Question number two: What if any current agency and board activities are not required by the statutes? And I believe all of what we're doing with the benefit payments are necessary. We do have to keep accurate records. We do have to keep...work with the employers and the reporting of the benefits, the contributions and then we also have to pay the benefits. And there's a number of different aspects of paying benefits, keeping track of death benefits and required minimum distributions. And with the number of plans we have and all the different rules associated with the different types of plans we have, it does require a lot of administration. We are required to provide retirement education. That's an area where some people might say, well, you could cut those expenses. We have cut some of them, but we can't eliminate retirement education; it's something required by federal law that you keep your employees informed. And I know as part of your guidelines for the retirement plan that you, you know, that we are looking at...we do need to provide retirement education and financial education for the employees. The members do not always use the education services, but our costs, in general, are proportionate to their use. The board and the staff training and those associated costs we have reduced. In some cases we feel like that may not be the best for the agency to reduce those training and conference participations because we are missing out on things that could help us carry out our duties properly, but we are reducing those for the current biennium. The third question is: What if any statutorily required activities are the agency or the board currently foregoing? At the present time we are not eliminating any statutorily required activities, nor would it be appropriate to do so given our fiduciary duties. Number four is: What plans are you able to share with the committee for proposed actions to reduce expenditures for the next biennium? We have proposed a biennium budget for 41 and 42 that reduces our expenses as mandated and we will monitor the budget for those expenses and make sure that we stay within the limits. And we are very careful, and Randy is very careful about what we do expend and everybody knows that...they, in general, they're hesitant to ask for any additional expenses in the agency. We are...we do look at everything very closely. As far as Program 515, the total required contributions for 2011-12, I'm just going to talk about next year, is $53,604,365 and if you've got our budget you can see that that's the amount we've requested. This includes expenses for the Omaha Service Annuity, the 1 percent of salaries. It includes additional contributions for the school and State Patrol. It includes the Omaha Service Annuity; Omaha school salaries; and Omaha COLA; and the COLAs for the other plans. So in all total it amounts to a large number. The PERB was asked by the Governor's Budget Office and the Legislature to submit a budget modification of 10 percent of the 2010-base budget. And we had never been asked for a modification before to the budget for these items. I don't know if that's because they were funding of the plans, but this was new to us and we did submit a budget modification. We reduced the base-budget by $2.7 million from $27.4 million to $24.6 million and then we were asked to decrease and eliminate all the new expenses as well. So the total amount of our reduction then amounted to $28.9 million that we submitted in the budget modification. We did have a lengthy discussion at the PERB board meeting. The board was very concerned with having to do this. They did not feel it was their fiduciary duty to go against the statutes, number one. And number two, to vote to not fund the plans. They felt like they would be digging a deep hole if the plans were not funded. They did...they were also...looked at reducing the Omaha line items, Program 515. It was their understanding that since they did not have fiduciary duty or contractual obligations for the OSERS, that they have their own board, that they...they would be in a position to remove those from the budget. And so they did so reluctantly. I have received several calls from Omaha retired members who have contacted me regarding the board's decision who think it is very inappropriate for the board to have done so. The items listed under the state plans, the board decided they couldn't prioritize, they didn't feel, again, the fiduciarily they could take money away from any one plan over another, so they did an across-the-board cut on those. However, when you see it in the budget, they are numbered because the budget software puts them in the order that you enter them in the system, But we did not prioritize them. There are no plans to reduce any agency or plan expenditures required by statute unless the Legislature enacts any changes to those statutes and directs NPERS to make those changes. The Nebraska Legislature has always appropriated the necessary funding to protect and keep the Nebraska Public Employee Retirement Plans healthy. And other states and municipalities that have failed to fund their plans have dug a deep hole for themselves and it's very difficult in times like this to climb out of those. This summer I presented information to the PERB on what other states are doing to change their plans to make their plans...to improve their funding levels and also to reduce their liabilities. Some of those state changes included increasing employer/employee contributions which we have already done here...which we did right away in 2009. We were one of the first states to do that. We have...other states are extending the period over which your salaries are calculated. For example, we have a three year...our formula for the defined benefit plans is your three highest years of salary. Some states have gone to changing that to five years to calculate the salaries which lowers the benefit. Some have changed the benefit factor. Our factor is 2 percent for the schools; 3 percent for State Patrol; and 3.5 percent for judges. Some states have changed that formula factor and reduced it also which lowers the benefit. Some states have increased retirement age and service requirements. They have changed their rule of 85 to rule of 90; or the rule 80 to 85. They have changed retirements from 55 to 60 or 60 to 62. So those are the types of things they're doing. They have also implemented antispiking provisions and salary caps. And they have reduced cost of living adjustments, COLAs, for some of the members in the plan. And they have changed return to work provisions to help prevent double-dipping. And lastly, they've implemented benefit adjustments based on funding levels. So they're saying we're not...we won't change anything, but if the funding level reaches a certain amount, we will change the benefit or have the ability to change the benefit. These changes do create legal issues involving contract rights. Most of the changes implemented by state retirement systems are for new employees only which will not have a substantial impact for a number of years. And I'm providing this list of changes that states are doing, not because the PERB and I are recommending any of these, but for informational purposes only. This summer I attended the National Association of Retirement Administrators, NASRA conference, and we discussed funding issues and various changes that states are implementing. And in general my colleagues and I feel and believe that citizens around the country aren't against public employees having retirements, nor are they against having defined benefit plans. What people object to are the abuses that you see with spiking or exorbitant salary benefits. And the media has focused on these, their attention on these abuses with good reason. So we all felt that most of our plans, the employees in our plans are receiving average benefits to below average benefits compared to some of those that you're reading about. State government leaders believe that public employees do receive lower wages as compared to other job markets and jobs in the private sector so it's important to provide a fair benefit to public employees. And I think the research would show that too. We also believe that public employee retirement plans provide a benefit not only for the retiree, but for the local economy and the communities they live in. These benefits prevent retirees from relying on public assistance and also return money back into the economy. The average monthly benefit for a Nebraska school employee is $1,600 a month and that is not excessive by any means. We have previously reported to you that 90 percent of the school, judges, and patrol retirement benefits paid to NPERS retirees in 2009 went to counties in Nebraska, all the counties in Nebraska spread out and benefitted those communities and those retirees that have amounted to approximately $295 million in benefits we paid last year. The fifth question is: Are there statutory requirements or constitutional limitations that impede the ability of the agency and the board to reduce current or future expenditures and if so, please describe? Presently all the items listed in 515 are required to be funded by statute. There are no services associated with Program 515. So there are no efficiencies that NPERS can implement to reduce costs in these plans. They are statutory provisions to fund these plans. They're either fixed amounts, percentages, or actuarial valuations. And they are...I've listed those statutes for you. There are significant legal consequences if the Legislature decides to change the statutes or decides not to fund the retirement benefits for current members and for retirees. Since these are pension benefits, they are covered by contract law and I'm not an attorney and we don't have an attorney here present with us representing NPERS. But in Nebraska a pension benefit vests when an employee accepts employment and becomes a member of the pension plan. The contract's clause of the U. S. Constitution and Article 116 of the Nebraska Constitution protect benefits against impairment. The contract laws and court cases are listed in the memo that I sent to you. Article 1 of the U.S. Constitution provides that no state shall pass any law impairing the obligation of contracts. And that's been condensed. Also, additionally Article 116 of the Nebraska Constitution provides that no law impairing the obligation of contracts shall be passed. And I've provided Nebraska Supreme Court case there for you to refer to. That cites that...the case that they cited the employees' constitutionally protected rights were upheld because they were vested in the pension plan and they felt it was a contract impairment. A number of states have reduced benefits for existing members or retirees to help improve funding. Lawsuits were immediately filed by members in those states. The cases are pending and all interested parties are waiting to see how those rulings actually turn out. It could take a number of years. But some of the states that are being sued currently for contract impairment are Colorado, South Dakota, Michigan, Minnesota, and Rhode Island. And I would just like to comment, one of the areas that I talked about where states are making changes are spiking and salary caps. Those seem to be in the media. Those are areas where there have been abuses. As far as Nebraska, our school plan, we have exemptions for school plans salary caps. Prior to 2005, the school salary increases were capped at 10 percent per year for purposes of retirement. There were issues with spiking of salaries in the final three years which makes up the retirement benefit. And in 2005, the Legislature changed the law to cap salaries at 7 percent, but they also allowed exemptions. The exemptions are:

if you have a substantial change in job duties; a collective bargaining agreement, or a district-wide change of benefits. NPERS is finding that there are a number of retirements that are greater than the 7 percent and we're finding a number of exemptions. That doesn't mean that these changes in salaries aren't legitimate, that they aren't receiving a higher benefit for good reason, but it does present a funding issue for the plan. If the members and employers are not contributing long enough for that higher benefit that we're ending up paying, it creates a higher cost to the plan which is picked up the by the state. And I have checked with neighboring states, South Dakota, Colorado, and Iowa, they all have salary caps. They do not provide exemptions for employees. I asked the actuary if he could tell me what the impact of this practice would be and what it costs our plan to provide exemptions. He researched the data that we provided him for the last five years that this has been in effect and up until 2009 which was the data that he used, he determined that in July 2009, there were 39,000 active members in the plan and approximately 5,000 of those were eligible to retire, meaning they were age 60 with 5 years of service; age 55 with 30 years of service or else they were 35 years of service. But of those 5,000 that were eligible to retire, 2,329 of those received a salary increase greater than 7 percent at some time during the last 3 years. If all 100 percent of those 2,329 were to retire last year, he calculated it would amount to a lifetime benefit for those members of $26.3 million for that excess amount over the 7 percent. Now obviously we don't have 100 percent of our retirees retiring in any given year; we don't have 100 percent of them receiving exemptions. That's the maximum he calculated because we don't...what I would like to do is look at our numbers and try to do some queries and determine...it's something we haven't really looked at before, but do some checking and find out for you just how many are actually receiving exemptions. Offhand our staff felt that it might be 20 to 30 percent are receiving exemptions when they retire. And they don't really look at...the 7 percent cap doesn't come into play if you're 30 years old and you've got a salary increase. But when you're in your retirement...when you're eligible for retirement and you could possibly retire in 3 years and it's used for your 3 highest years of salary, and it could be like the fifth year, the fourth year and then the first year could all be the 3 highest years because we don't take the 3 consecutive years, we take the 3 highest years. So it's going...if they are capped, those are the ones...if they are greater than 7 percent, those are the ones that are going to be used. And there are a number of schools that are submitting exemptions. It is an issue for us administratively because we're trying to get those exemptions from the school; we have trouble getting the exemptions. The auditors are asking us: Do we have the exemptions and why are they exempt and did you get a copy of the contract? And we, in some cases, we're having to get contracts. So, you know, it is an issue where we may want to take a look at them. It's also an issue of can you change that for existing members or is this going to be for future members only, because would that be a change in a benefit? So, I just... []

SENATOR PANKONIN: Director Chambers, I might...while we're on the topic... []

PHYLLIS CHAMBERS: Yes. []

SENATOR PANKONIN: ...I think it's so important that I want to ask my question right now. []

PHYLLIS CHAMBERS: Um-hum. []

SENATOR PANKONIN: Would this take legislative change then on these...this is in the statutes, the exemption issue? []

PHYLLIS CHAMBERS: It would. It is, 79-902, it's in the definitions under... []

SENATOR PANKONIN: That's your understanding as well, Kate? []

KATE ALLEN: Yeah, I've got it right here. []

PHYLLIS CHAMBERS: Is that...do you have it? []

KATE ALLEN: Yes. It's sub 35 under Compensation, the definition of compensation. []

PHYLLIS CHAMBERS: Um-hum. Okay. So I'm just...I just call that to your attention because if you're looking for costs and what we're paying out in costs are those fair and reasonable benefits to be paying above a certain amount when other people aren't receiving that? []

SENATOR PANKONIN: Okay. Thank you. I'm sorry to interrupt your presentation. []

PHYLLIS CHAMBERS: Um-hum. That's okay. And I was finished. So good timing. And so I'm ready if you have any questions. []

SENATOR PANKONIN: I think we will, but I'll let my committee members start if they'd like. Senator Heidemann, do you have questions? []

SENATOR HEIDEMANN: I just want to make a statement, I've very interested in that spiking and I think that looks like it could be an issue down the road and I think that it's something that we definitely need to look at to try to curb that, just looking at the extra expense to the state what the retirement systems are going to cost us and that kind of comes back into the question that I do have. We see what these other states are all doing to save money, does...is NPERS going to have any recommendations regarding possible changes to the plans which could result in savings for us? []

PHYLLIS CHAMBERS: Well, my... []

SENATOR HEIDEMANN: Just looking at how much money we're going to have to put into these plans, I mean, do you have recommendations that you're going to provide so that maybe down the road this wouldn't be so expensive for us? []

PHYLLIS CHAMBERS: As I understand it, we're not really supposed to make benefit recommendations one way or another. I can provide you with any information, you know, like I provided you kind of an example of what other states are doing. If there's anything you're interested in looking at or having us study as to what the cost of that or an impact of that would be. I can help you with that information. We can ask the actuary to help us and/or we can provide you with numbers. As far us, as the board, making recommendations, I think we have been told that we're not supposed to be making recommendations to the committee. Is that your understanding? I guess I'm asking, Senator, Chairman, is that... []

SENATOR PANKONIN: Our counsel is saying you probably don't advocate for a course of action, but you could probably present alternatives. []

KATE ALLEN: I think the statute says you can't advocate for benefit enhancements. []

PHYLLIS CHAMBERS: Um-hum. []

KATE ALLEN: But this has to do with an efficiency that could result in being able to maintain the solvency of the plan. I think that's different than what the statute limits in terms of board actions. []

SENATOR PANKONIN: But I also think, as Director Chambers has stated, that these are being challenged legally across the country and I think we're going to have to...part of the issue here is to see if what the result is. And it might not be conclusive because every state has a little different case law and background that may come into play. Would that be your understanding as well? []

PHYLLIS CHAMBERS: It would be. It would be. The states are different. Most of them are similar to ours, though, I believe. Most of them use contract law, but interpreted similar to Nebraska. But there are some exceptions and I guess...you know, we want to be helpful; I personally want to be helpful. I think the board wants to be helpful. I think we have to be careful as from the employee groups' standpoint as not advocating one way or another. But certainly we can...I can say that, you know, you can look at some of these ideas that are here. Any of these are going to lower your funding and your future liabilities. I guess I shouldn't say everything. If it's a funding mechanism like contributions, that doesn't limit your long-term liability. When you're changing the benefit formula, that reduces your long-term liability. So if you're looking at what is the state's obligation down the road, then you might be looking at the benefit changes. If you're looking at just how do we get through the current budget issue and the funding currently, then you can control that somewhat with contributions. But long-term effects are benefit changes, I think. And the benefit changes, if you try to change existing members or retirees, that's where you're going to get into serious problems. If you try to change it for new hires, which a number of states are doing, then you avoid some of those legal challenges. However, you do create new tiers of employees and you create new benefits and administratively it creates issues for us in new programming, and that kind of thing, which we can deal with. But so there's time you have to consider how much time it takes to implement a change and notify employees and all of the things that you might be considering. But there's really, I mean, there are a lot of different things out there you can look at and as you can see by the list. But those...any of those I would be happy to help provide information on. []

SENATOR HEIDEMANN: Are our defined benefit plans sustainable? []

PHYLLIS CHAMBERS: Yes. []

SENATOR HEIDEMANN: If they're sustainable, why is the state going to have to put tens of millions of dollars into them? []

PHYLLIS CHAMBERS: There's two. I guess maybe, and this is my own, coming from me, one is the economy right now, so you've lost a lot of investment which 70 percent of the money for defined benefit comes from investment return. []

SENATOR HEIDEMANN: But any plan should have to take into account that the economy is going to do this once in a while. []

PHYLLIS CHAMBERS: Yes, it should. And if you look at like in the '90s, I believe that benefit factor was increased from 1.7 to 1.8 to 2 percent and so when those changes were made, when you increase that benefit formula, increases your benefit, then that creates your liability. So are they sustainable if you reduce some of that benefit obligation? I think you'd have a better chance... []

SENATOR HEIDEMANN: But I asked you are they sustainable as we know them now? []

PHYLLIS CHAMBERS: As they currently are? I don't know. I don't know the answer to that. []

SENATOR HEIDEMANN: And I say that for a reason because you'd make the comment, in general my colleagues and I do not believe citizens are against public employees having retirement plans or defined benefit plans. I agree with you, but I will tell you that my constituency in the 1st District are upset to no end that we are going to have to put the amount of money into these public retirement accounts to make these things work. They don't care that there are defined benefit plans out there, but they need to be sustainable so that we don't have to put that kind of money in there. Your comment on that. []

PHYLLIS CHAMBERS: And you could try to control the amount of money that's going in, in the future by reducing some of those benefits. It won't be popular. []

SENATOR HEIDEMANN: Won't be popular with who? []

PHYLLIS CHAMBERS: The employee groups is what I, you know. []

SENATOR HEIDEMANN: But it will be popular with everybody else that has to pay sales tax and income tax in to make these things work? []

PHYLLIS CHAMBERS: As a taxpayer I would say yes. What I think most people want is something that's fair. And so what is a fair benefit? And we did talk about that among our colleagues that some of these benefits have gotten out of hand. Now our benefits aren't as high as some. But one thing that was done, that maybe in retrospect, was the COLA. The COLAs are expensive. And for a number of years they were ad hoc and so you could do a COLA. If you had the money, you did the COLA; if you didn't, you didn't have to do it. They made them permanent. That was a very costly benefit change that for existing retirees and for current members that I don't know that you're going to be able to change that. Not unless you have a constitutional amendment to change, and I don't know if there are any states going down that path or not. But certainly for going forward, you could change the COLA and make it an ad hoc. I mean, these are things you can...again I don't want to be recommending these things because I'm going to be the one that gets shot. But I'm just saying... []

SENATOR HEIDEMANN: Isn't it part of the board and even yourself to make sure that these plans are sustainable and if they're not, wouldn't you want to make recommendations to make sure that they are? I'm not trying to be negative here by any means, but I'm just trying to get your opinion maybe a little bit. []

PHYLLIS CHAMBERS: Okay. Well, I think that's a fair question. I think that's a very fair question. []

SENATOR PANKONIN: Director Chambers, I'd like to ask a few questions. []

PHYLLIS CHAMBERS: Okay. []

SENATOR PANKONIN: On the briefing we had before you came in, I had noticed that the scheduled fees and taxes, fees charged to members, the basis points have varied, there's some variance in those and some have, you know, some are zero and some are 30 and some are 35 and...it's kind of jumped around and then we got to a page that had the forfeiture dollars that has a $1,302,947 in it, per this report, so I've got two questions. On the basis points which it says, fees charged to members, basis points, tell me a little bit about what NPERS' goal is there. Here's one that's zero zero. Then 30 basis points in '08-09, what's kind of your feeling on that? And, I mean, this...the background is this is where members...it says fees charged to members, I assume this helped the administration of these plans? []

PHYLLIS CHAMBERS: Yes. Yes, those...there are...the members pay fees in a couple different ways and depending on what plan it is, they're paying administrative fees that NPERS takes costs out of. They pay the investment council and the investment managers. Those come out of the returns of the plans, so we don't see those, but those are definitely costs. They're higher than our costs. And then they pay...for state and county they pay fees to recordkeeper, Ameritas. []

SENATOR PANKONIN: So on these reports that Kathy Tenopir prepared, here's one that was 5 basis points and 25 and then it's back down in '08-09 to 15. []

PHYLLIS CHAMBERS: Those are NPERS' fees for administration, yes. []

SENATOR PANKONIN: So why... []

PHYLLIS CHAMBERS: Why is there a variation? []

SENATOR PANKONIN: ...aren't they consistent across the board and what is your policy? []

PHYLLIS CHAMBERS: Well, we actually charge them based on what our costs are. And so when we were in the process of doing the latest computer conversion and our costs that year were higher, those were shared by the members. []

SENATOR PANKONIN: Now are those set by the board then? The basis points for administration? []

PHYLLIS CHAMBERS: Yes, they are. []

SENATOR PANKONIN: As part of a policy change with the benefits and complexity of all the things you've mentioned and we know of, to have a consistent policy that charges some basis points for the administration, wouldn't that be fair? When you talk about fairness, that I would think if you're in this plan and it's a good plan that there would be certain fees for the members, is that something that could generate more revenue for you? []

PHYLLIS CHAMBERS: We did talk about that, we did talk about that. []

SENATOR PANKONIN: And what was the feeling? []

PHYLLIS CHAMBERS: At the present time we had charge...we felt we had overcharged them for the computer. I think the board felt they had overcharged, you know, like when they were paying 30, 35 basis points that...so at the present time there was money in the forfeiture account to pay the fees. And those forfeitures come from members that aren't vested and that money is to be used for fees as well. []

SENATOR PANKONIN: So to make some of these, particularly some of the budget goals that have been set out, not obviously the big money is in the plans, I understand that, but, for your...to run your organization, that $1,302,947, is that money still there and how do you propose to use it? []

PHYLLIS CHAMBERS: The money is still there to be used over...to draw down on. And Randy is our accounting and finance manager so I would ask Randy if you want to make any comment on that. []

SENATOR PANKONIN: (Inaudible) []

RANDY GERKE: We will...we believe that we will start drawing that down within a few months. We have not needed it as yet. []

SENATOR PANKONIN: Will that help in your agency budget then? []

RANDY GERKE: Yes, it will. That will go to pay operating costs that are allocated to the state plan. []

SENATOR PANKONIN: So as part of some of your goals to lower your budget, this would be part of the money that could be used or would be used? []

RANDY GERKE: That will be used, yes, to pay those expenses. []

SENATOR PANKONIN: Okay. Policy on forfeiture is an NPERS policy then? It's not a statute, it's a policy, I mean, when this forfeiture money does come in on a regular basis I would assume. []

RANDY GERKE: I believe there is statute that... []

SENATOR PANKONIN: There is statute on that? Okay. []

RANDY GERKE: Um-hum. []

SENATOR PANKONIN: Obviously compared to the big dollars, but I was just curious about that after hearing the presentation. Any other questions? We are going to have to end so we can go to the public portion of our hearing on some general retirement principles. But we thank you for coming and obviously this is an issue that's going to have to be looked at more because of the dollars that are involved and I'm sure we'll be headed that way to have further discussion. Thanks for being with us today. []

PHYLLIS CHAMBERS: Appreciate your time this morning and I will share your questions and concerns with the board and be happy to work with you on any of these issues. []

SENATOR PANKONIN: Thank you. Okay, that closes the agency briefing and we will start with the interim study hearing and I'm sure Kate Allen is going to do the presentation. []